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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,706	12/17/2001	Michael G. Harris	772490100015	6249
24325	7590	11/04/2004		
STEPHEN D. SCANLON JONES DAY 901 LAKESIDE AVENUE CLEVELAND, OH 44114			EXAMINER NOLAN, SANDRA M	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/022,706

**Applicant(s)**

HARRIS ET AL.

**Examiner**

Sandra M. Nolan

**Art Unit**

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-15 and 20-50 is/are pending in the application.
- 4a) Of the above claim(s) 24, 27 and 29-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-15, 20-23, 25-26, 28, and 41-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claims***

1. After entry of the 23 August 2004 amendment ("the last response"), claims 1-4, 6-15 and 20-50 are pending.
2. Claims 1-4, 6-15, 20-23, 25-26, 28, and 41-50 are treated here. Claims 5 and 16-19 have been cancelled. Claims 24, 27 and 29-40 have been withdrawn.

### ***Objection Withdrawn***

3. The objection to claims 1, 20, 23, 26, 41 and 44 is withdrawn in view of the amendments in the last response.

### ***Rejection Maintained***

4. The 35 USC 102 rejection of claims 1-4, 6-15, 20-23, 25-26, 28 and 41-50 as anticipated by Wooster et al (US 5,631,069), as set out on page 3 of the 02 July 2004 office action ("the last office action") is maintained for reasons of record.

### ***Response to Arguments***

5. Applicant's arguments filed in the last response have been fully considered but they are not persuasive. Those arguments will be responded to in the order in which they were recited.

On page 10 of the last response, applicants argue that Wooster's compositions must contain a SLEP that is not equivalent to the LLDPE or LMDPE resin designated as applicants' "third polyethylene".

However, applicants' claims do not exclude SLEP's because they recite either "comprises" or "comprising" in their preambles. Also, the rejection does not state that its SLEP is the equivalent of applicants' "third polyethylene".

Note, too, that the several of Wooster's A and B components can contain resin blends and that its HDPE and LDPE "diluent" (see col. 14, lines 34-49 of the patent) could be LLDPE's or LMDPE's.

On page 11, applicants argue that Wooster does not disclose a stress crack resistance of at least 24 hours.

However, under 35 USC 102 inherent properties need not be recited in the reference. It is enough for the examiner to show that all of the recited chemical components are taught therein. See MPEP 2112 and 2112.01.

### ***Final Rejection***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
7. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Conclusion**

Any inquiry concerning this communication should be addressed to Sandra M. Nolan, at telephone number 571/272-1495. She can normally be reached Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the examiner are unsuccessful, her supervisor, Harold Pyon, can be reached at 571/272-1498.

The fax number for patent application documents is 703/872-9306.



S. M. Nolan  
Primary Examiner  
Technology Center 1700

10022706(20041102)